

असाधारण

EXTRAORDINARY

भाग II - खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 11.08.2000.

Bill No. 60 of 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2000.

Short title

2. In the Eighth Schedule to the Constitution, entries 7 to 18 shall be re-numbered as entries 8 to 19 respectively and before entry 8 as so re-numbered, the entry "7. Kurmali", shall be inserted.

Amendment of the Eighth Schedule.

Kurmali is a very old and rich language and is spoken widely in many parts of this country especially in Bihar, West Bengal and Orissa. It is estimated that around fifty million people speak this language. The language has its own literature and has eminent scholars. This language is taught in the University of Ranchi in Bihar.

Yet, unfortunately, this rich language has not got due recognition it deserves. Hence, it is proposed in the Bill that the Kurmali language be included in the Eighth Schedule to the Constitution.

The Bill seeks to achieve the above objective.

New Delhi; March 3, 2000.

BIR SINGH MAHATO

BILL No. 85 of 2000

A Bill to repeal the Official Languages Act, 1963.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Official Languages (Repeal) Act, 2000.

Short title.

2. The Official Languages Act, 1963 is hereby repealed.

Repeal of Act No. 19 of 1963.

19 of 1963.

As per article 343(1) of the Constitution of India, it has been declared that official language of the Union viz the national language of our country, shall be Hindi in Devanagari script.

Article 343(1) is a basic and fundamental provision of the Constitution. Because every independent country should have a national language of its own, this provision neither can be repealed nor can be done away with either directly or indirectly.

According to article 343(2) of the Constitution, it was provided that the English language shall continue to be used for all the official purposes of the Union for fifteen years from 26th January, 1950 as a make shift and ad-hoc arrangement, with the condition that during the said period of fifteen years, the Hindi language shall also continue to be used alongwith English language if the President so authorised it.

Further, as a make-shift and *ad-hoc* arrangement, Government was conferred with the power under article 343(3) of the Constitution to continue the use of English language in official work even after 26.1.1965 by enacting the legislation to that effect.

In order to give a report to the President of India regarding progressive use of Hindi as the official language of the Union and to put a check on the use of English, an Official Language, a Commission was constituted under the Chairmanship of late Shri Bal Gangadhar Kher on 7th of June, 1955.

A Committee consisting of thirty members of both the Houses was constituted to evaluate the report of the Kher Committee on a proposal moved by the Hon'ble Minister of Home Affairs on 3rd December, 1957 under the Chairmanship of Late Shri Govind Ballabha Pant.

Although the Official Languages Act, 1963 was passed as a make shift arrangement, yet it took the form of a permanent legislation for indefinite use of English language which was against the provision of article 343(1) of the Constitution.

The provision of article 343(1) of the Constitution was made in national interest, and for strengthening national unity and for fulfilling the expectations of the people.

It is pertinent and desirable that the Official Languages Act, 1963 should be repealed to protect national unity and integrity.

New Delhi;

LAXMINARAYAN PANDEY

March 31, 2000.

BILL No. 102 of 2000

A Bill to provide for the compulsory use of Hindi language and one of the other Indian languages specified in the Eighth Schedule to the Constitution in all commercial advertisements and on packages of consumer goods and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Use of Indian Languages in Commercial Advertisements and on Packages of Consumer Goods Act, 2000.

Short title, extent and commencement

Compulsory use of Hindi

and one other Indian

language in

advertisements.

- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Not with standing anything contained in any other law for the time being in force,—
 - (i) all commercial advertisements, whether handwritten, printed or broadcast through radio or television network or through any other form of communication to which general public has access, for the purpose of promotion of business, commerce, trade, service, industry or any other related field; and
 - (ii) all matters including the details of product, brand name or content therein and related matter printed or handwritten or otherwise on every packed article of food, drink, drug, cosmetic, or any other item which is meant for human consumption.

shall be in Hindi language in Devanagari script and in one of the other Indian languages specified in the Eighth Schedule to the Constitution:

Provided that if foreign language is used in any advertisement, brand name or otherwise, the matter in that language c'all be inscribed below the matter in both the Indian languages.

3. Whoever violates or abets to violate the provisions of section 2 shall be punishable with imprisonment which shall not be less than six months but which may extend to one year or with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees, or with both.

Punishment.

Even after fifty years of independence, Indian languages have not found a place, they deserve. It is irony of fate that although our Constitution recognises eighteen languages, most of the commercial work is done in a foreign language, i.e., in English. We have become so obsessed with the thought that we cannot work properly without the use of English language. Every commercial company tends to show its greatness in getting its labels, advertisements, etc. printed in English language.

The Bill is being brought forward with the sole objective of increasing propagation and promotion of Indian languages in place of English language and thereby promoting nationalism and self-pride by removing the illusion and mental slavery of English language.

New Delhi; *April* 18, 2000.

LAXMINARAYAN PANDEY

BILL No. 124 of 2000

A Bill to provide for loan facilities to meritorious students for pursuing their higher studies and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Meritorious Students (Assistance in Higher Studies) Act, 2000.

Short title, extent and commencement

- (2) It extends to the whole of India.
- (3) It shall come into force at once.
- 2. In this Act, unless the context otherwise requires:—

Definitions

- (2) "bank" means any nationalised bank and includes any financial institution which is owned by or under the control of or where fifty one percent of shares are held by the Central Government or receiving aid from the Central Government;
- (b) "higher studies" means and includes courses in medicine, engineering or management or any professional course in any field or vocation or research in any field from any recognised college or a university or an institution;

- (c) "meritorious student" means a student who has secured a minimum of seventy-five percent marks in the higher secondary examination; and
 - (d) "prescribed" means prescribed by rules made under this Act.

Banks to provide loan to meritorious students. 3. All meritorious students shall be provided with loan from the Banks for pursuing their higher studies:

Provided that the loan shall be sanctioned only to such a student whose family income from all sources is not more than ten thousand rupees per month.

Explanation:—For the purpose of this section, "family" means husband, wife and their dependent children.

Application for loan.

- **4.** (1) Any student who fulfills the provisions of section 3 and who wishes to pursue higher studies may make an application to the concerned branch of any bank.
- (2) An application made under sub-section (I) shall be disposed of within one month from the date of receipt thereof.

Amount of loan

Terms and conditions of

sanction and

repayment of loan.

- 5. (1) The loan shall be payable to the eligible student till he completes the course for which the loan is applied for.
- (2) The amount of loan payable shall cover the entire cost of education which shall include course fees, study materials, hostel fees, if any, and any other related expenditure in connection with the education.
- (3) The Bank shall make the payment directly to the Head of the college or university or institution where the student is studying.
- 6. (1) The loan shall be given to an eligible student without any security or guarantee:

Provided that the Bank may demand from the student such details and documentary proof, as it may deem fit, before sanctioning the loan.

(2) The loan shall be recovered from the students in equal monthly instalments with simple interest at the rate of five percent per annum immediately after the student gets a job on completion of his study:

Provided that the loan shall be repaid within four years from the date of getting job.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

The University Grants Commission has decided to stop the funding of institutions of higher studies and has asked them to be self-supporting. Consequently, the institutions have taken recourse to hike in course fees for their sustenance. The meritorious students who come from the lower income strata of society are unable to afford this hike in fees and are, therefore, deprived of higher studies. This will have a adverse effect on the nation building activity.

It is, therefore, necessary that banks extend concessional financial assistance nominal rate of interest to meritorious students to enable them to pursue their studies unhindered and contribute to nation building.

The Bill seeks to achieve above objectives.

New Delhi; April 18, 2000 HARIBHAI CHAUDHARY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL No. 106 of 2000

A Bill to abolish employment of Children, bonded or otherwise, in hazardous employment, rehabilitation of those children who are employed and for welfare measures for them and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour in Hazardous Employment (Abolition, Rehabilitation and Welfare) Act, 2000.

Short title, extent and commence-ment.

- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.
- 2. In this Act, unless the context otherwise requires:—

Definitions.

- (a) "appropriate Government" means in case of a State, the Government of the concerned State and in respect of rest of territories, the Central Government;
- (b) "child labourer" means a child below the age of fourteen years and who is engaged in any job or occupation;
- (c) "employer" means a person who engages a child in any job or occupation and if the employer is a company or a corporate body, the Chairman, Managing Director or an executive head of such body or company;

(d) "hazardous employment" means engagement in a job, occupation or enterprise, in a situation where the worker is exposed to hazards to life or serious accident, chronic diseases, depravity or degeneration in life, and risk of grievious hurt, and which would include engaging children in begging or collection of alms or in immoral and criminal acts including prostitution or those having direct impact on moral and character of the child and other hazardous employment as prohibited under the Child Labour (Prohibition and Regulation) Act, 1986;

61 of 1986.

- (e) "prescribed" means prescribed by rules made under this Act.
- 3. Child Labour in hazardous employment in any form is hereby abolished.
- 4. Whoever engages a child in hazardous employment, shall be punished with imprisonment which shall not be less than three years and with fine which shall not be less than twenty-five thousand rupees:

Provided that if the child employed is-

- (a) a girl child;
- (b) a bonded child labourer;
- (c) is engaged in-
 - (i) begging:
 - (ii) prostitution;
 - (iii) jobs involving crime and moral terpitude; or
 - (iv) work having direct impact on the morality and character of the child,

the employer shall be punished with imprisonment which shall not be less than five years and with fine which shall not be less than fifty thousand rupees but may extend to one lakh rupees in case where the child is employed as sex worker, smuggling or as carrier in espionage and other heinous crimes.

Census of child labour

Abolition of child labour

Penalty.

5. The appropriate Government shall conduct census of child labour within its territorial jurisdiction in such manner as may be prescribed.

Rehabilitation of child labour.

6. The appropriate Government shall rehabilitate the child labour found under section 5 in such manner as may be prescribed.

Police officer to be punished for refusal to register FIR. 7. If a police officer responsible for registering cases under his territorial jurisdiction refuses to register First Information Report for an offence under this act, or otherwise aids or abets the commission of such offence he shall be punished with imprisonment for a term which shall not be less than two years and with fine which shall not be less than twenty thousand rupees.

Appropriate Government to declare hazardous employment. 8. The appropriate Government shall with immediate effect declare a comprehensive list of hazardous employments and jobs being carried out within its territorial jurisdiction.

Facilities.

9. Every employer who employes a child in non-hazardous job shall arrange free education and vocational training for the children employed in his workshop, establishment or household and shall also provide adequate facilities for games, sports and recreation after working hours, or otherwise, in such manner, as may be prescribed.

Power to make rules

10. The appropriate Government may within a month of the enforcement of this Act, frame rules for carrying out the purposes of this Act, which shall be duly notified in the Official Gazette and laid before the both Houses of Parliament.

Article 24 of the Constitution of India provides for prohibition of employment of children below fourteen years of age "in any factory or mine or engaged in any other hazardous employment". Every child has a right against exploitation. The very fact that a child is kept away from school and is made to work for earning bread by itself speaks of exploitation. In a welfare democratic 'State' like India, it is for the 'State' to provide for conditions in which personality of a citizen can develop to its best self. But when a child is forced to give up its toys and take to tools, and is deprived of basic education, so essential for development of personality, it obviously speaks to exploitation of the Child.

Yet the growing population of the country, a high percentage of which (over 35%) continues to live below poverty line, explains the inevitability of a huge work force comprising of children. "Immediate ban on child labour would be both unrealistic and counter-productive" observed the Supreme Court in its May 1, 1997 judgement. Yet exploitation of the child in tender age, say 10 years of age, amounts to a grave abuse of child-hood, and needs to be prohibited. Also, the presence of child labour in hazardous industries and jobs represents a gross violation of human rights. If child labour is a practical necessity, it has to be regulated strictly allowing full mental and physical development of the child by way of education, sports, training and recreation. There is thus a need for effective enforcement and implementation of Article 24 of the Constitution to prohibit employment of children in hazardous jobs. Despite the constitutional provision prohibiting engagement of children in hazardous jobs, millions of children continue to work in firework and match factories at Sivakasi, glass and bangle factories at Ferozabad, carpet factories at Varanasi, biri factories and other hazardous factories. Lakhs of children are engaged by their parents and their masters in begging, which occupation by its very nature cannot allow them to be good citizens. Several children are found engaged as carriers by smuggler and drug peddlers. The damage done to the life of these citizens of tomorrow can better be imagined than described.

An effort was made in 1986 to prohibit and regulate employment of children in hazardous jobs, Hon'ble Prime Minister announced an active plan to eliminate and abolish employment of children in hazardous jobs. Even though the 1986 Act incorporated a schedule enumerating the hazardous jobs, yet the law does not define precisely what "hazardous employment" means. A serious attempt should, therefore, be made to define what is called "hazardous employment", not only to encompass jobs involving hazards to life and physical self of the child, but also to include jobs posing grave threat of devastation to the morality, character and nature of the child even forcing them into depravity.

Since the enactment of the law has failed to provide any deterrent against engagement of children in hazardous jobs, and the number of child workers in such jobs continue to increase, even during the last 16 years when we have been particularly alive to the evil of child labour and have as a nation subscribed to the U.N. Convention on Rights of the Child. Latest figures show that from 10% to 30% of the work force in hazardous industries like slate and slate-pencil, glass, fire works and metal industry comprise of children. Massive presence of children amongst beggars and sex workers is a matter of shame for the Nation. An effort, therefore, need to be made to make the law more deterrent, not only for employers, but also for the law enforcers who collude in preferring to turn a blind eye to child labour employed in varied hazardous jobs.

Hence this Bill.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the appropriate Government shall conduct census of child labour.

Clause 6 provides for the rehabilitation of child labour found in census by the appropriate Government. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of rupees one hundred crore per annum as recurring expenditure.

A sum of rupees fifty crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the appropriate Government to make rules for carrying out the purpose of the Bill. The rules will relate to matters of detail only.

The delegation of legislative power is of a normal character.

BILL NO. 121 OF 2000

A Bill further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called The Forest Conservation (Amendment) Act, 2000.

Short title.

1. This Act may be called the Forest Conservation (Attendment) ret, 2000.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act),—

Amendment of section 2.

- (i) in Explanation, in clause (a), the words "or medicinal plants" shall be omitted.
- (ii) the existing Explanation shall be numbered as clause (1) thereof and after clause (1) as so numbered, the following clause shall be inserted, namely:—
 - "(2) In this section, the expression forest land or portion thereof shall not include bushes grown naturally."...
- 3. After section 2 of the principal Act, the following section shall be inserted, namely:—

"2A. Notwithstanding anything contained in this Act or any other law relating to forests for the time being in force, no forest land or any portion thereof containing medicinal plants shall be used for any forest or non-forest purpose.".

Insertion of new section 2A

Forest land containing medicinal plants not to be used for forest or non-forest purpose

69 of 1980.

The Forest (Conservation) Act, 1980 is a very effective legislation to save forests. The Act helps to ensure adequate forest cover in the country in order to maintain ecological balance and to sustain rain fall. Over the years certain difficulties have been experienced in implementation of provisions of this Act. Though it is ensured that Act is enthusiastically implemented it some times results in hampering of developmental works. Even bushes grown naturally are considered as forest and lengthy formalities like getting approval of the Government have been order of the day.

Medicinal plants in the country are rare and they ought to be protected at any cost. Therefore, it is proposed that no forest land containing medicinal plants shall be used for any purpose what so ever.

Hence this Bill.

New Delhi; July 10, 2000 SUBODH MOHITE.

BILL No. 122 of 2000

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2000.

Short title.

2. In article 243C of the Constitution, in clause (5), for sub-clause (b), the following sub-clause shall be substituted:

Amendment of article 243C.

"(5) (b) a Panchayat at the intermediate level or district level shall be elected, by and from amongst, the elected members thereof, the elected members of the House of the People and members of the Legislative Assembly of the State representing the Constituencies which comprise wholly or partly a Panchayat area at a village level or at intermediate level or at district level, as the case may be:

Provided that such election shall be conducted after giving twenty-one days prior notice to all the persons who are eligible to cast their votes at the election.

3. For article 243J of the Constitution, the following article shall be substituted, namely:—

Substitution of new article for article 243J.

"243J. The Legislature of a State shall, by law, make provisions with respect to the maintenance of accounts by Panchayats and the auditing of such accounts which shall be completed within three months of the expiry of the financial year and placed for scrutiny before the Comptroller and Auditor-General of India." Audit of accounts of Panchayats.

With the increasing Powers and responsibilities of Panchayats and members and with the devolution of large funds upon Panchayats, the question of accountability has assumed a new dimension whereby members of Panchayats whether belonging to Zilla Parishad, Block or Gram Panchayat are expected to be accountable for the administrative and financial decisions taken by them. Due to the lack of transparency and accountability in the system, people have no access to information and decisions taken by Panchayats. Therefore, to ensure transparency and accountability in the Panchayati Raj System, it is proposed to amend articles 243C and 243J of the Constitution of India.

Hence this Bill.

New Delhi; *July* 10, 2000

PRIYA RANJAN DASMUNSI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for maintenance of accounts by Panchayats at various levels. It further provides for auditing of such accounts by Comptroller and Auditor-General of India. More auditors have to be appointed for this purpose. This will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees twenty crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

BILL NO. 119 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called The Constitution (Amendment) Act, 2000.

1. This Act may be called the Constitution (Amendment) Act, 2000.

2. After article 30 of the Constitution, the following heading and article thereunder shall be inserted, namely:—

RIGHTS OF POOR FAMILIES

- "31. Every family whose income from all sources is less than rupees one thousand per month shall be entitled to the following facilities:—
 - (1) one room set with all modern facilities;
 - (2) free education for one child upto higher secondary level;
 - (3) employment to one member of the family; and
 - (4) cloth, food and other essential commodities at subsidised rates.

Provided that all facilities given to a family shall be withdrawn once employment has been provided to atleast one member of the family:

Provided that the facilities shall not be withdrawn even after one person has been provided with employment if income of the family from all sources does not exceed rupees one thousand per month.

Explanation.— For the purpose of this article, "family" means husband, wife and dependent and minor children.".

Short title

Insertion of new article 31

Certain facilities to families earning less than rupees one thousand per month.

In our country, millions of people are living in stark poverty and their income is less than rupees one thousand per month. Despite several measures taken to improve their lot, their standard of living has not shown any significant change. There were crores of people whose income was just five anna per month in 1955 and now their income is less than rupees one thousand per month. In the present day, these families are living below the poverty line and neither they have any shelter nor cloth to wear or food to eat.

Therefore, it is necessary to amend the Constitution and provide these families basic necessities of life *i.e.* food, shelter and clothes. The Constitutional guarantee is a must for these people to live with some respectability.

Hence this Bill.

New Delhi; July 10, 2000 Y.S. VIVEKANANDA REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for certain facilities like shelter, employment, free education and essential commodities to people whose income is less than rupees one thousand per month. This would involve expenditure from the Consolidated Fund of India. It is likely that an annual recurring expenditure of about rupees one hundred and fifty crore will be involved. Non-recurring expenditure to the tune of rupees three thousand crore is also likely to be involved.

BILL No. 120 of 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2000.

Short title.

- 2. In clause (2) of article 103 of the Constitution of India, for the words "Election Commission", the words "Electoral Advisory Body" shall be substituted.
- Amendment of article 103.
- 3. After article 324 of the Constitution of India, the following article shall be inserted, namely:—

Insertion of new article 324A

"324A. (1) There shall be set up an Electoral Advisory Body consisting of the Chairman of the Council of States, the Prime Minister, the Chief Justice of India, the Speaker of the House of the People, the Leaders of Opposition in both the Houses of Parliament, the Chief Election Commissioner and an eminent jurist to be appointed by the President.

Electoral Advisory Body.

- (2) The Chairman of the Council of States shall be the Chairman of the Electoral Advisory Body.
- (3) The Electoral Advisory Body shall formulate the electoral policy and shall have the power to review decisions taken by the Election Commission in the discharge of its functions.
- (4) The Election Commission may refer any matter to the Electoral Advisory Body, with respect to elections.
 - (5) The decision taken by the Electoral Advisory Body shall be final.
- (6) The annual report of the Electoral Advisory Body giving the detailed report of its functioning during the year shall be laid on the Table of each House of Parliament.
- (7) The Electoral Advisory Body shall be provided with necessary staff for its functioning from both the Secretariats of the Parliament.".

The role of the Election Commission during 11th, 12th and 13th Lok Sabhas has invited adverse comments by all political parties and public in general. The Chief Election Commissioner refused to take collective decisions and took number of controversial decisions where Supreme Court had to intervene and clipped the wings of the Chief Election Commissioner. The decisions of the Election Commission have been both criticised or acclaimed by the political parties, groups depending upon their political ideologies. The wisdom and equity shown by the Election Commission by staggering election process of 13th Lok Sabha for more than five months and deferring poll results for more than one month has also received adverse comment across wide spectrum of media and general public. This is not a happy situation.

Article 324 of the Constitution vests in the Election Commission the power of superintendence, direction and control of elections which is inherently an administrative power. The Election Commission cannot encompass policy decisions which impinge on the functions of the executive and legislature. Even the judicial intervention had to be sought to resolve certain controversial decisions of the Commission. This has created an unsavoury and anomalous situation.

The time has come to review the provisions of the Part XV of the Constitution. An "Electoral Advisory Body" consisting of Chairman of the Council of States, the Speaker of the House of People, the Leader and Opposition Leader of the House of People, Opposition Leader of the Upper House, Chief Justice of India, the Chief Election Commissioner and an eminent jurist to be appointed by the President to review the decisions of the Election Commission. It will enhance transparency and credibility of the role of the Election Commission and provide free, fair elections in the country which are sina-quanon of any democracy.

The Bill seeks to achieve the above objectives.

NEW DELHI;

VILAŞ MUTTEMWAR

July 11, 2000.